



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

March 6, 1991

Mr. James B. Bond
Deputy Chancellor
The Texas A&M University System
College Station, Texas 77843-1116

OR91-123

Dear Mr. Bond:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10130.

Texas A&M University received a request for certain information in regard to the university's chemistry department. You have submitted representative copies of documents you seek to withhold, and you have marked them to identify the material you seek to withhold under specific exceptions to the Open Records Act. We agree with your markings on the pages you have identified with the following numbers: 1, 2, 3, 4, 5, 6, 7, 11, 14, 15, 16, 19, 20, 21, 22, 23, 24, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47.

You seek to withhold the letter marked as pages 8, 9, and 10 under section 51.914(1) of the Education Code, which provides that in order to protect actual or potential value, the following information is confidential:

all information relating to a product, device, or process, the application or use of such a product, device, or process, and all technological and scientific information (including computer programs) developed in whole or in part at a state institution of higher education, regardless of whether patentable or capable of being registered under copyright or trademark laws, that have a potential for being sold, traded, or licensed.

The first part of the letter merely recapitulates an article in the magazine Science. Therefore, it may not be withheld under section 51.914(1). Also, the postscript to the letter

may not be withheld under section 51.914(1). Portions of the postscript, however, must be withheld under section 3(a)(14). We have marked the letter accordingly.

The document on pages 12 and 13 is an unsigned draft of a letter from a university professor to the editor of Science. If the letter was not actually sent to the editor of Science, you may withhold it under section 3(a)(11). If the letter was sent, you must release it except for the paragraphs we have marked as excepted under section 3(a)(14).

You seek to withhold the memorandum marked as pages 17 and 18 under section 3(a)(3), the litigation exception. Apparently, however, the memorandum was written to the other party in the pending litigation. Therefore, you may not withhold it under section 3(a)(3).

The last paragraph on the memorandum marked as page 25 may not be withheld under section 3(a)(11).

The entire first paragraph on page 26 must be withheld.

The letter marked as pages 27 and 28 is addressed to a person who has no apparent connection to Texas A&M University. If that is the case, several of the exceptions you raise are inapplicable and only the portions marked as 3(a)(14) are excepted from disclosure.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-123.

Yours very truly,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/lcd

Ref.: ID# 10130